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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/871,444

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Thomas W. Nickerson

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/871,444

Applicant(s)

NICKERSON, THOMAS W.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-25, and 28-30 are pending in this examination; claims 1, 7, 13, 19, and 25 independent. The Office acknowledges the addition of claims 28-30.

Claim Rejections - 35 USC § 101

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 13-24 are rejected under 35 U.S.C. 101 because they are drawn to non tangible embodiments. See MPEP 2106 regarding tangible embodiments for computer related claims.

Claims 13-24 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 18 line 25 to page 19, line 5, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g. a readable memory device such as a hard drive, ROM, or RAM) and intangible embodiments (e.g. communications or transmission medium). As such, the claim is not limited to statutory subject matter and is therefore non-statutory. Applicant is required to amend the claim. A suggestion by the Office would be to amend "computer-usable medium" to "readable memory device".

Claims 19-24 are drawn to a computer data signal, which is not a tangible embodiment. Applicant is required either to amend the claim as to not include non-statutory subject matter or cancel the claim.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 6-10, 12-16, 18-22, and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakajima (USPN 6,892,240).

4. Referring to claim 1, Nakajima discloses a method for displaying dynamic page content in a page-caching browser capable of loading content for display from a cache, the method comprising:

specifying an address to stored content at a source (i.e. URL/hyperlink) (col. 8, lines 25-45);

at a browser application (i.e. at the client communication device 612), inserting a unique identifier to the address, the appended identifier being unique for each request of the page by the browser application (this is an inherent feature since if the identifier was not unique for each request, it would then be requested from the cache, since this would not be considered a new URL), the unique identifier preventing the browser from loading the content from a cache (i.e. HTTP Proxy 620 recognizes this as a new document request, causing the cache service to be avoided) (col. 8, lines 30-45);

transmitting a content request with the address and the appended identifier to retrieve the stored content from the source regardless of whether the browser is

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configured to load content from the cache (the browser never finds the selected URL within its disk cache) (col. 8, lines 30-45).

5. Referring to claim 2, Nakajima discloses the address includes a URL (i.e. `http://httpserver.internet/document/`) to content of at least a portion of a web page (col. 8, lines 30-45).

6. Referring to claim 3, Nakajima discloses the address includes a query string, the unique identifier appended to the address in the query string (an HTTP GET command, which is used in Nakajima to retrieve the resource identified by the URL is inherently a query string, since it queries the server to determine if the resource is there, and if so, returns the resource, and if not, returns an HTTP error message) (col. 8, lines 30-45).

7. Referring to claim 4, Nakajima discloses the unique identifier is a random number (i.e. temporary unique character string) (col. 8, lines 35-45).

8. Referring to claim 6, Nakajima discloses the unique identifier is an alpha-numeric representation (i.e. `temp11223344HTTP/1.0` is an alpha-numeric representation) (col. 8, lines 30-45).

9. Claims 7-10, 12-16, 18-22, and 24-25 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5, 11, 17, 23, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima in view of Lambert et al. (US 2002/0038350) (hereinafter Lambert).

11. Referring to claim 5, Nakajima discloses the invention substantively as described in claim 1. Nakajima does not specifically state the unique identifier is a timestamp. In analogous art, Lambert discloses another method for displaying dynamic page content wherein the unique identifier is a timestamp (p. 11, ¶ 230). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Lambert with Nakajima in order to generate what appears to be a unique marker reference for each access of the markers, seen by the caching software as a unique URL as supported by Lambert (p. 11, ¶ 230).

12. Claims 11, 17, and 23 are rejected for similar reasons as stated above.

13. Referring to claim 28, Nakajima discloses the invention substantively as described in claim 1. Nakajima does not specifically state that the page content is

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dynamically based on a state associated with a client session. In analogous art, Lambert discloses the page content dynamically based on a state associated with a client session (i.e. based on the request, the appropriate structure of the document is chosen) (p. 5, ¶ 113-116). It would have been obvious to one of ordinary skill in the art to combine the teaching of Lambert with Nakajima in order to generate what appears to be a unique marker reference for each access of the markers, seen by the caching software as a unique URL as supported by Lambert (p. 11, ¶ 230).

Claim Rejections - 35 USC § 102

Claims 1-25, and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Lambert.

14. Referring to independent claims 1, 7, 13, 19, 25, and 28-30 (e.g. exemplary claim 1) Lambert discloses specifying an address (p. 11, ¶ 230), at a browser application, inserting a unique identifier into the address to prevent the browser from loading the content from the cache (the JavaScript code to generate the timestamp is executed in the client browser, and therefore is considered inserted at the browser application) (p. 11, ¶ 230), transmitting the content request with the unique identifier (p. 11, ¶ 228-231), the page content is dynamically based on a state associated with a client session (i.e. updating the IXC logs to provide information for redirection (p. 10, ¶ 220; p. 11, ¶ 228-231).

15. Referring to claims 2-6, 8-12, 14-18, and 20-24, they are all inherent variations of the system described in the independent claims.

Response to Arguments

16. Applicant's arguments dated December 29, 2005 have been fully considered but are not persuasive.

17. In the remarks, Applicant argues, in substance, that (1) a computer data signal is statutory since claims 13-24 include a practical application of electromagnetic signals, (2) the URL of Lambert is modified in the page's HTML, however the HTML page is retrieved from cache memory, and (3) Nakajima's browser appears to retrieve pages from its local cache.

18. As to point (1) Applicant's recitation of pertinent sections of the MPEP are correct, however Applicants application of these sections is misguided. Although MPEP 2106 addresses tangible results, Applicant's claimed invention produces no tangible results. All that is claimed is a computer data signal. The practical application cited "to provide a program code segment" (response, page 9) does not produce any tangible results (i.e. a program code segment is not tangible unless encoded on a computer-readable medium). Furthermore Applicant's attention is directed to the Interim Guidelines, Annex IV, pages 55-57 (section c) will find that "it does not appear that a

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claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in §101". A computer data signal is not a process, a manufacture, or composition of matter. By this rationale, the rejection is maintained.

19. As to point (2), Applicant should be made aware that the URL of Lambert, once clicked on, will force the computer to retrieve the page from the server, not the cache. Applicant's attention is directed to p. 11, ¶ 230 where it is that the caching software sees the URL as unique. Once that URL is clicked upon, the cache will see this as a unique URL and not attempt to load any page from the cache. By this rationale, the rejection is maintained.

20. As to point (3), Applicant has no support for this basis. Applicant's attention is directed to col. 7, lines 15-20 where it is stated that "the change to URL of an upstream HTTP header...prevents the HTTP proxy from sending the content of the cache back to the client without connecting to the server communication device 631". This clearly demonstrates that the system of Nakajima, clearly forces the system to retrieve the web page directly from the server. Regardless of whether it "appears" thereafter to retrieve pages from its local cache (which is an interesting assumption given the cited passage), the reference clearly meets the limitations presented in the claims. By this rationale, the rejection is maintained.

Conclusion

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

22. Applicant has had numerous opportunities to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA
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